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Before the
Federal Communications Commission
Washington D.C.

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JUL 25 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

**Amendment of the Commission's
Rules to Establish New Personal
Communications Services**

GEN Docket No. 90-314

To: The Commission

Petition for Further Reconsideration

Point Communications Company ("Point") hereby requests the Commission to further reconsider its rules adopted in the Memorandum Opinion and Order released on June 13, 1994 ("Order") in this proceeding. The Order substantially changed the proposed rules on reconsideration, hence a request for further reconsideration is permissible. This Petition reflects the viewpoint of a small cellular company which has competed successfully with a major RBOC carrier for many years.¹ Point simply desires that the opportunity afforded to small businesses and designated entities in this docket be a real one in light of the actual competitive pressures which will arise in the PCS industry.

Equalize License Service Areas

It is a serious competitive mistake to have two different market sizes for PCS licenses, with large MTA's for the big communications companies and small BTA's for the

¹ Point is the licensee of Cellular System KNKN 231 in the Oregon-4 Rural Service Area. Point's system was among the first, if not the first, of the independently operated nonwireline cellular systems to go on the air in a rural service area. Point has successfully operated its system on a standalone basis in competition with a major RBOC for nearly four years.

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designated entities and small businesses. Doing so will handicap the designated entities and small businesses from the start, and few will ever recover from it.

The principal competitive distinctions between mobile communications offerings are service areas and service rates. After price, customers look for one thing -- where they can use their phones. PCS will be no different. In the hypercompetitive market being created by the Commission (2 cellular carriers, 1 ESMR carrier, and up to 7 PCS carriers), prices and service features will quickly equalize among carriers. What will not equalize are service area discrepancies which are built into the licensing format. The Commission is fooling itself it thinks that a divergent group of many PCS providers with small BTA service areas will ever be able to compete effectively against telecommunications giants operating MTA systems in attracting customers.

It is no answer to say that the smaller BTA providers can cooperate in networking their systems together or that they will eventually merge to reach equivalent market area sizes. Point has first hand experience in networking among independent companies, and it unfortunately entails enormous additional expenses and operational hassles.² Those additional costs would make the designated entities and small businesses on BTA blocks less able to compete on price against the huge MTA operators. Likewise, merging together into larger companies would destroy the very reason for giving a special opportunity in the first

² In comparison to the relatively few MTA carriers who would receive wide area regional licenses, the many disparate BTA carriers would face huge difficulties, costs and delays in setting standards for networking and seamless coverage system to system, creating and administering roaming agreements among themselves, detecting and reducing roamer fraud, and dealing with the small systems which insist on unjustifiably high levels of compensation for roaming service. Also, the MTA carriers will tend to come from a handful of telecommunications giants who are used to dealing with one another on such issues. The same will not be true for the hundreds of BTA carriers who would be licensed, many for the first time in this industry.

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place to designated entities and small businesses. The Congressional mandate is not to make the owners of these organizations rich through quick roll ups. Rather, it is to provide a base for these organizations to coexist in the telecommunications marketplace for the benefits that diversity of ownership will create.

The solution to this competitive dilemma is simple -- make all PCS licenses the same in market size. This can be done most effectively by employing the U.S. Department of Commerce's "BEA Economic Areas" for market sizing instead of the Rand-McNally BTA/MTA scheme. Prior to the issuance of the Order, this was suggested at the last minute by the National Telecommunications and Information Administration, but for somewhat different reasons than Point is suggesting now. It deserves a much closer look by the Commission on further reconsideration. There are enough BEA Economic Areas to create a meaningful opportunity for designated entities and small businesses, yet they have enough "critical mass" to be as attractive to major spectrum bidders as MTA's, so auction revenues would not suffer. Using the same size market areas would also rationalize prices bid at auction by designated entities and small businesses because they would have direct comparisons to the bids made by the huge telecommunications providers on the unrestricted blocks.

Employing BEA Economic Areas would have additional public interest benefits. The MTA/BTA scheme is awkward and inefficient in the western United States, where the entire West Coast is covered by only four MTA's. The Los Angeles MTA is particularly absurd, including Las Vegas, San Diego and splitting the Central Valley. The size, population, and spread of the MTA's in the West are completely out of proportion to the scope of the MTA's

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on the East Coast, which are more manageable in size. The BEA Economic areas do not suffer from such huge discrepancies, and are more closely tailored to the commuting patterns typical of mobile communications. The MTA/BTA scheme in many places, particularly on the West coast, seems to bear no relationship at all to commuting patterns.³

If the Commission is really serious about providing a legitimate economic opportunity to designated entities and small businesses, it should not handicap them with service area disadvantages that they can only sell themselves out of. Using BEA Economic Areas would solve this problem entirely.

Open Network Architecture

The Commission should require open network architecture to be employed for PCS networks. This would guarantee competition among equipment suppliers and reduce the cost of constructing the networks, which ultimately would express itself in lower costs to consumers. This is particularly important for the designated entities and small businesses, because they will not have the purchasing power to obtain good deals from equipment suppliers if they cannot bid one against the other for additional network equipment. Cellular construction costs are high because each supplier of network equipment uses a proprietary

³ If BEA Economic Areas are not employed, then at the very least, the Commission should subdivide some MTA's, particularly those on the West Coast, to make them manageable in size, more in tune with traditional markets and commuting patterns, and more in balance with those in the East. For instance, San Diego and Las Vegas should each be licensed separately from Los Angeles, as should the Central Valley and Fresno. Likewise, Sacramento and Reno should each be licensed separately from San Francisco. This is precisely what was done by the Commission with the MSA boundaries in the cellular service, when the Commission realized that MSA boundaries did not necessarily reflect the cellular service needs of the public. Compare, for example, the "Modified MSA's" adopted for cellular for New York City and Los Angeles. The same type of reasoned modifications can be made here.

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design and can charge monopoly prices for equipment which is added to increase capacity of the network. The same mistake should not be made for PCS.

Bidding Eligibility Adjustments

Point applauds most of the changes the Commission has adopted in the Fifth Report and Order in PP Docket No. 93-253 ("Lottery Order"). However, one adjustment in the Lottery's Order's rules, when combined with the equalizing of market size as proposed above, would greatly enhance the ability of designated entities and small businesses to compete in the PCS marketplace. That adjustment would be to vary which block is named as the entrepreneur's set aside from market to market, so that designated entities and small businesses would have "big brothers" on their frequency blocks in other markets. This would make the designated entities and small businesses important to the success of the PCS industry as a whole. Tremendous resources would be made available by the larger companies to be sure the smaller ones do not lag in technological or service development on their frequency block. The smaller cellular carriers have greatly benefitted from the expertise provided on their frequency blocks nationwide by the larger companies. The same would happen with PCS.

Respectfully submitted,

Point Communications Company



John Hearne, Chairman

Dated: July 25, 1994

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Certificate of Service

I hereby certify that on July 25, 1994, a copy of the foregoing Petition for Reconsideration was sent by first class mail to each of the parties of record in this proceeding.



John Hearne